

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JASMINE BESISO and MYRONE POWELL,

Plaintiff,

-v-

MATT BARNES and DEMARCUS
COUSINS,

Defendants.

Civil Action No.: 16-cv-9461 (RA)

**DECLARATION OF
KEVIN A. FRITZ**

KEVIN A. FRITZ, an attorney duly admitted to practice before the United States District Court for the Southern District of New York, pursuant to 28 U.S.C. § 1746, declares under penalty of perjury, as follows:

1. I am an attorney at Meister Seelig & Fein LLP (“MSF”). I respectfully submit this declaration pursuant to Local Civil Rule 1.4, to Rule 1.16 (c) (7) of Professional Conduct in support of our request to withdraw as attorneys of record for Defendant Matt Barnes, (“Defendant”), in the above captioned action.

2. On December 21, 2016, Mitchell Schuster of MSF and I filed Notices of Appearance on behalf of Matt Barnes. (Dkt. 11, 12). However, on December 22, 2016, Mr. Schuster and I filed a letter with the Court requesting to be relieved as counsel for Mr. Barnes due to his failure to pay a retainer. (Dkt. 13). The application was granted by the Court on the same day. (Dkt. 14).

3. On April 3, 2017, Mitchell Schuster and I again filed Notices of Appearance on behalf of Matt Barnes. (Dkt. 28, 29). On August 31, 2017, Eugene Meyers of MSF also filed a Notice of Appearance on behalf of Matt Barnes. (Dkt. 42).

4. However, throughout this case, it has been virtually impossible, to communicate with Mr. Barnes because he does not return my firm's voicemails, electronic communications, or letters.

5. The firm was able to participate in discovery by gathering documents and information from other counsel for Matt Barnes. As for the mediation, which was unsuccessful, the firm consulted with Matt Barnes' insurer.

6. However, the next steps in the litigation are summary judgment motions and, if those are not completely dispositive, trial. The firm cannot properly and fully represent Matt Barnes given his unresponsive conduct.

7. Our withdrawal will not prejudice Matt Barnes' rights as litigant or delay the adjudication of this proceeding if the Court grants our application.

8. Neither MSF or any of its attorneys are asserting a retaining or charging lien.

9. I respectfully request that the Court enter an order allowing MSF's attorneys to withdraw as counsel for Matt Barnes in this action.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 9, 2021, in New York, New York.

/s/ Kevin A. Fritz
KEVIN A. FRITZ

CERTIFICATION OF SERVICE

Kevin A. Fritz, does hereby certify that:

1. I am employed by Meister Seelig & Fein LLP.
2. A true and correct copy of the NOTICE OF MOTION TO WITHDRAW AS COUNSEL and Supporting Documents were served, within the time provided by the Rules, upon:
(a) Jason Lesnevec of The Law Offices of Michael S. Lamonsoff, PLLC, as counsel for plaintiffs, via electronic filing; (b) Michael A. Bono of Wade, Clark, Mulcahy, LLP, as counsel for defendant DeMarcus Cousins, via electronic filing; (c) defendant Matt Barnes via (i) FedEx overnight delivery to 15850 Seville Lane, Encino, CA 91436, which is his last known address; (d) FedEx overnight delivery to Chris Moogan, Claim Director, North American Casualty Claims, Chubb, 150 Allen Road, Suite 101, Basking Ridge, NJ 07920, which is Mr. Barnes' insurer; and (e) email to Chris Moogan (chris.moogan@chubb.com).
3. The foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

/s/ Kevin A. Fritz
KEVIN A. FRITZ

Dated: December 9, 2021